

1937

## c 261 Telephone Act

Ontario

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## CHAPTER 261.

## The Telephone Act.

## 1. In this Act,—

Interpretation.

- (a) "Board" shall mean the Ontario Municipal Board; "Board."
- (b) "Company" shall include an incorporated company, "Company," municipal corporation, commission, association, partnership, individual or aggregation of individuals owning, controlling or operating, or who may propose to own, control or operate a telephone system or line within Ontario;
- (c) "Cost of establishing and maintaining any system or extension thereof," shall mean not only the cost of constructing, erecting and installing the system, but also the cost of such improvement or strengthening of it, or any extension thereof, as may be necessary or expedient by the addition of switchboard equipment, poles, cables, wires, cross-arms, insulators and other appliances, or by the application of such work or labour as may be deemed necessary or expedient by the Board or the initiating municipality, or the commissioners, as the case may be, to enable it to give the subscribers efficient telephone service; "Cost of establishing, etc., system."
- (d) "Extension" and "extended" shall include and apply to any works necessary for furnishing telephone service to any person by an existing telephone system; "Extension," "Extended."
- (e) "Initiating municipality" shall mean a municipal corporation which has established or proposes to establish a telephone system under this Act; "Initiating municipality."
- (f) "Maintenance" and "maintaining" shall include repairs, switchboard operation, superintendence and management of the system; "Maintenance."
- (g) "Special Act" shall mean and include any Act of the Legislature of the Province of Ontario authorizing the construction of a telephone system or line and with which this Act is incorporated, "Special Act."

and also letters patent incorporating a telephone company, and supplementary letters patent relating to such a company issued under the authority of any Act of this Legislature;

"Subscriber."

- (h) "Subscriber" shall mean and include every person who, being a landowner, signs a petition to the council of a municipality praying for the establishment or extension of a telephone system which is afterwards established or extended pursuant to such petition, or upon whose property an annual special rate is or may be levied and collected for the purpose of paying the cost of establishing and maintaining such system or any extension thereof, or any reconstruction, replacement or alteration of the same or any part thereof and also a person who having been a subscriber as last above defined has fully paid all annual special rates in respect of the establishment of a system or of its extension and the cost of maintenance during the period for which debentures have been issued to pay the cost of such establishment or extension, and continues thereafter to take telephone service from such system on the basis of paying such charges therefor as may be approved by the Board;

"System."

- (i) "System" shall mean a telephone system established under this or any former Act;

"Toll,"  
"Tolls."

- (j) "Toll" and "tolls" shall include any toll, rate, rental, or charge for the transmission of telephone messages or for the use of telephone instruments, or circuits, or for the supply of telephone service. R.S.O. 1927, c. 227, s. 1.

## PART I.

### *Telephone System Operated as a Public Utility.*

Establishment and operation of telephone business as public utility.

2.—(1) The corporation of every urban municipality may establish and carry on a telephone business as a public utility, and for the purposes of such business may construct, maintain and operate in, over, under, upon or across the highways, lanes, parks, squares and other public ways, passages and places in the municipality, or in, over, under, upon or across the land of any person therein, an underground or overhead or partly underground and partly overhead telephone system, and do all things necessary or convenient for that purpose including the issue of debentures to meet the cost of the same.

(2) Any by-law authorizing the issue of debentures, and any by-law authorizing the assumption of any outstanding debentures issued in respect of a system established under Part II which is passed by the council of a municipal corporation in the exercise of the powers conferred by this section or by sections 3 or 4, shall not be valid until it shall have received the assent of the electors qualified to vote on money by-laws as required by *The Municipal Act*. R.S.O. 1927, c. 227, s. 2.

Debentures, assent of electors required.  
Rev. Stat. c. 266.

3. The corporation may for the purpose of establishing or carrying on such business acquire, by purchase or lease or, subject to the provisions of Part II in that behalf, may expropriate any telephone system in the municipality (hereinafter designated the initiating municipality) established under any former or other Act or under Part II. R.S.O. 1927, c. 227, s. 3.

Acquisition of existing systems.

4. Where a system established under Part II is acquired by a municipality under section 3 the debentures theretofore issued under Part II and then outstanding and unpaid shall cease to be a charge upon the funds of the respective subscribers or any of them and the same as they mature and fall due and the interest upon them shall be met and paid by a rate to be imposed by the corporation upon all the rateable property in the municipality. R.S.O. 1927, c. 227, s. 4.

Debentures of acquired system to be paid by municipality.

5. Where parts of any building in the municipality are owned or occupied by different persons the corporation may carry wires to any part of such building, and for that purpose may pass over or through or under the property belonging to any owner, or in the possession of any tenant or occupant. R.S.O. 1927, c. 227, s. 5.

Right of passage where building has more than one owner or occupant.

6. The provisions of Part III and Part IV of *The Public Utilities Act* shall, *mutatis mutandis*, apply to a corporation so establishing and carrying on a telephone system and the words "public utility," where they occur in said Parts III and IV, shall include telephone service. R.S.O. 1927, c. 227, s. 6.

Provisions of Rev. Stat. c. 286 to apply.

7. Where a municipal corporation has heretofore constructed, purchased or acquired or hereafter constructs, purchases or acquires a telephone system under this Part or where such corporation has undertaken the construction, purchase or acquisition of a telephone system, and it appears that the cost of such construction, purchase or acquisition has exceeded or will exceed the amount already provided for that

Borrowing money for extension or acquisition.

purpose or where it is deemed expedient by the council of such municipal corporation from time to time to construct an extension or extensions or any improvement or improvements of such telephone system, the council may pass a by-law or by-laws for borrowing such further or other sum or sums as may be necessary to extend, improve or complete such telephone system or for the purchase or acquisition of the same or to meet the cost of extensions or improvements already made to such telephone system; and

When assent  
of electors  
not required.

(a) the by-law shall not require the assent of the electors if it is passed by a vote of three-fourths of all the members of the council and is approved by the Board; and

Approval  
by Board.

(b) such approval may be given if it is shown to the satisfaction of the Board that the expenditure proposed to be made for any such extension or improvement, or for the completion of such telephone system or such purchase or acquisition is necessary, and that a sufficient revenue or sufficient additional revenue will be derived therefrom to meet the annual payments in respect of such debt and the interest thereon or where it is made to appear to the Board that the net revenue derived from such telephone system justifies the construction of such extension or improvement. R.S.O. 1927, c. 227, s. 7.

Application  
for certain  
sections in  
Parts II,  
V and VI.

8. Sections 17, 18, 19, 31, 32, 33, 34, 35, 44, 70, 71, 72, 73, 74 and 78 of Part II and Parts V and VI shall, *mutatis mutandis*, apply to a municipal corporation carrying on a telephone business as a public utility under this Part. R.S.O. 1927, c. 227, s. 8.

Powers of  
Board.

9. The Board shall have and may exercise in respect of a telephone business established and carried on as a public utility under this Part all powers and authority which it has and may exercise in respect of a system established and carried on under Part II. R.S.O. 1927, c. 227, s. 9.

## PART II.

### LOCAL MUNICIPAL TELEPHONE SYSTEMS.

#### *Establishment and Extension of Systems.*

Petition  
for estab-  
lishment of  
system.

10. A petition signed by not less than ten assessed land-owners may be presented to the council of any local municipality praying for the establishment of a telephone system. R.S.O. 1927, c. 227, s. 10.



**11.** A petition signed by one or more assessed landowners, may be presented to the council of a local municipality in which a telephone system is established under section 10 praying for an extension of such system so as to serve his or their premises respectively. R.S.O. 1927, c. 227, s. 11.

Petition for extension of system.

**12.** A petition under section 10 or 11 shall set forth such particulars as the Board may require, and a signature after being affixed to such petition shall not be removed therefrom, except with the approval of the Board; provided, however, that no application for such approval shall be considered by the Board after the lapse of six months from the date of the passing of the by-law for the establishment of the system or in the case of a petition for an extension to the system, after the lapse of six months from the date upon which the signature was affixed to such petition. R.S.O. 1927, c. 227, s. 12.

Particulars to be stated in petition.

Removal of names from petition.

**13.** Where the petition for the establishment or extension of a system prays that the debentures of the initiating municipality shall be issued to pay the cost of the work, any additional landowner may, with the permission of the council, or of the commissioners as the case may be, at any time before the passage of the debenture by-law, affix his signature to such petition, and thereupon and thereafter such additional landowner shall have all the rights and be subject to all the obligations of the original signatories to such petition. R.S.O. 1927, c. 227, s. 13.

Adding signatures to petition after presentation to council.

**14.** The petition shall constitute a valid and binding contract on the part of each person signing the same to repay to the initiating municipality his share of the cost of establishing or extending the system as the case may be, and operating and maintaining the same. R.S.O. 1927, c. 227, s. 14.

Petition to constitute a contract.

**15.** Upon the receipt of a petition praying for the establishment of a telephone system the council of the initiating municipality may by by-law at the expense of the subscribers, and subject to such conditions as may be set forth in the by-law, provide for the establishment of the system and for the maintenance and operation of the same. R.S.O. 1927, c. 227, s. 15.

By-law for establishment of system.

**16.** After the establishment of a system the initiating municipality may from time to time, upon the receipt of a petition praying for an extension of the same, construct any extension as may seem expedient and necessary for the purpose of supplying telephone service to the petitioners. R.S.O. 1927, c. 227, s. 16.

Construction of extensions.

Extension  
of system  
into another  
municipality.

**17.** The council of the initiating municipality may, from time to time extend the system into another municipality with the consent of the council of such other municipality, or with the approval of the Board on the petition of ten assessed landowners of such other municipality. R.S.O. 1927, c. 227, s. 17.

Extension of  
system into  
unorganized  
township.

**18.** Subject to section 83, the council of the initiating municipality may, with the consent of the Board, extend the system into an unorganized township, and the part of such unorganized township into which the system is extended, to be defined by the Board, shall, for the purposes of this Act, be deemed to be annexed to the initiating municipality, and the council and officers thereof shall levy and collect all special rates under this Act and do all acts and perform all duties and be subject to the same liabilities in respect to such part of such unorganized township as, for the purposes of this Act, they may do, perform and are subject to with respect to the initiating municipality. 1932, c. 28, s. 2.

Approval  
by Board  
of by-law,  
plans and  
specifica-  
tions.

**19.—(1)** The initiating municipality before proceeding to establish a system, shall furnish to the Board a certified copy of the by-law providing for the establishment of such system, together with such plans, particulars of the cost of the work, and such other information as the Board may require, and no debt shall be incurred for the construction of the system, or for the purchase of material to be used in such construction until the Board shall have approved such by-law.

General  
provisions  
relating to  
extensions.

**(2)** The by-law may provide in general terms for the making of extensions to the system from time to time thereafter, and upon the receipt of a petition for an extension the initiating municipality may from time to time construct the same, and if any such extension requires the issue of debentures the by-law authorizing such issue shall recite the making of such extension, and shall adopt and confirm the same. R.S.O. 1927, c. 227, s. 19.

Location of  
exchange or  
switchboard  
by initiating  
municipality.

**20.** The initiating municipality shall, with the approval of a majority of the subscribers present at a special general meeting duly called, determine the location of any exchange or switchboard of the system, and any relocation of the same from time to time. R.S.O. 1927, c. 227, s. 20.

Location of  
exchange or  
switchboard  
by Board.

**21.** In case of the failure to determine the location or relocation of any exchange or switchboard under section 20, the Board may determine the location or relocation of the same. R.S.O. 1927, c. 227, s. 21.

**22.** Every telephone system established or extended under this Part shall be vested in the initiating municipality in trust for the benefit of the subscribers, and such municipality shall be liable for all the obligations of the system and shall have and may exercise all or any of the powers conferred on municipal corporations by Part I. R.S.O. 1927, c. 227, s. 22.

Ownership  
of system.

*Borrowing Powers and Debentures.*

**23.** Where the subscribers or a majority of them, in the petition for the establishment or extension of the system, pray that the payment of the cost of the work be extended over a period not exceeding ten years, and that debentures of the initiating municipality be issued to pay the cost of the work, the council of the initiating municipality in the by-law providing for such establishment or extension of the system, or in a subsequent by-law, may provide for the issue of debentures payable within ten years from the date of the issue thereof, and that the proceeds of such debentures shall be applied in payment of the cost of establishing or extending the system as the case may be, and for levying a special rate upon the property of the subscribers sufficient to discharge any debt so incurred in equal annual instalments of principal and interest. R.S.O. 1927, c. 227, s. 23.

Issuing  
debentures  
for cost of  
work.

**24.** The debentures shall be issued on the credit of the initiating municipality, and it shall not be necessary that the by-law authorizing their issue be submitted for the assent of the electors, but such by-law shall not be valid until approved by the Board. R.S.O. 1927, c. 227, s. 24.

Assent of  
electors not  
required.

**25.—(1)** The initiating municipality may agree with any bank, person or body corporate for temporary advances to meet the cost of the work until the completion thereof, and may then pass the necessary by-law authorizing the issue of debentures, out of the proceeds of which the temporary advances shall be paid, but the by-law for the issue of debentures shall be passed not later than two years after the passing of the by-law for the establishment or extension of the system as the case may be, and the debentures shall be issued within twelve months after the passing of the by-law authorizing the issue of the same; provided, however, that the Board may extend beyond two years the period within which the by-law for the issuing of debentures may be passed and may extend beyond twelve months the period within which the debentures may be issued, and such extension of time may be granted although the application for the same is not made until after the expiration of such period of two years or twelve months, and in such case the by-law may be passed or the debentures issued within such extended time.

Agreement  
with bank  
for advances.

Granting  
extension of  
time for  
passing of  
by-law or  
issue of  
debentures.



Confirmation of prior orders of Board.

(2) Any order of the Board heretofore made extending the time for the passing of any such by-law or for the issue of such debentures is confirmed and declared to be legal, valid and binding notwithstanding that the application for such extension was made after the expiration of the period prescribed by this section. R.S.O. 1927, c. 227, s. 25.

Extension of debenture period.

**26.** Where the subscribers, or a majority of them, by petition to the council of the initiating municipality, pray that the payment of the cost of the work be extended over a period exceeding ten years, the Board may authorize the council to provide by by-law that the payment of the debentures to be issued may be extended over a period exceeding ten years, and in determining the length of such period the Board shall have regard to the character of the construction of such work and its probable durability; provided, however, that this subsection shall not apply to any system where the sum required to discharge the principal and interest of the debentures and to pay the cost of maintenance does not exceed twelve dollars per year for each subscriber. R.S.O. 1927, c. 227, s. 26.

Reconstruction, replacement or alteration of system.

**27.**—(1) Where in the opinion of the council of the initiating municipality or the commissioners of a system, as the case may be, it is necessary or expedient to reconstruct, replace or alter the system or any part thereof, and to issue the debentures of the initiating municipality to meet the cost of the same, the council of the initiating municipality may, with the approval of the Board, and without a petition from the subscribers or any of them, pass a by-law authorizing the doing of the work and the issue of debentures for that purpose, and it shall not be necessary that the by-law be submitted for the assent of the electors.

Costs, how paid.

(2) The Board shall fix and determine the period within which the debentures to be issued shall be made payable and the landowners who shall defray the cost of such reconstruction, replacement or alteration, and the lands upon and in respect of which the special rate shall be levied to discharge the debenture debt so incurred, with interest.

Provisions of Act to apply.

(3) The provisions of this Act as to debentures shall apply to debentures issued under this section. R.S.O. 1927, c. 227, s. 27.

Approval of Board to extensions for persons not assessed as land-owners.

**28.** The initiating municipality may with the approval of the Board and without obtaining the assent of the ratepayers, pass by-laws authorizing the issue of debentures to meet the cost of making an extension or extensions to the system

for the purpose of furnishing service to persons not being assessed landowners, but before approving of any such by-law the Board shall be satisfied that such extension or extensions is or are necessary and that a sufficient additional revenue will be derived therefrom to meet the annual payments of principal and interest in respect of the debt created by the issue of such debentures. R.S.O. 1927, c. 227, s. 28.

**29.** Where the initiating municipality has been ordered by the Board to construct works under this Act, such works shall be deemed to be an extension of the telephone system of such municipality, and the council of the initiating municipality shall have and may exercise in respect of such works the like powers as are vested in such council by this Act in respect of the construction of an extension of the system and the issue of debentures to meet the cost of the same, and such powers may be exercised without a petition from the subscribers to the system or any of them. R.S.O. 1927, c. 227, s. 29.

Works ordered by the Board to be deemed extension of system.

**30.** Where the debentures of the initiating municipality heretofore issued to pay for the cost of establishing or extending a system are payable within ten years from the date of issue, then, notwithstanding anything in any Act or in the by-law authorizing the issue of such debentures, the council of such initiating municipality may upon the petition of a majority of the subscribers, by by-law provide that a portion or portions of the principal of such debentures to fall due in any year or years may at maturity be liquidated by the issue of new debentures of the municipality, and it shall not be necessary for the municipality to provide by a sinking fund or otherwise for the payment of such portion or portions of the principal so falling due in such year or years, and such new debentures shall be payable at latest within twenty years from the date of issue of the first-named debentures, and the by-law or by-laws authorizing the issue of such new debentures shall make provision according to law for the payment of the same at maturity with interest, and shall not require the assent of the electors; but no such by-law or by-laws providing for the issue of new debentures shall be passed where the annual special rate levied upon any subscriber is less than twelve dollars, and in no case shall such a by-law take effect until it has been approved by the Board. R.S.O. 1927, c. 227, s. 30; 1937, c. 76, s. 2.

Issue of new debentures for portion of principal.

#### *Purchase and Expropriation of Systems.*

**31.** By agreement with the owner the initiating municipality may, with the approval of the Board, acquire by

Purchase by municipality of existing system.

purchase any existing telephone system operated in the municipality or any portion thereof, and also any part of such system situate in another municipality with the consent of the council of such other municipality, and failing such consent with the approval of the Board. R.S.O. 1927, c. 227, s. 31.

Acquisition of telephone company's system by agreement or expropriation.

**32.** For the establishment or extension of any system or to avoid duplication of systems or any part thereof, the initiating municipality may offer to purchase at a fixed price from a telephone company its system or any part thereof, and if the company does not accept the price so offered within one month from the date of the offer the initiating municipality may expropriate the system or the part thereof which it offered to purchase and the compensation to be made upon such expropriation shall be determined by the Board. 1937, c. 76, s. 3.

Damages resulting from severance.

**33.** In fixing the price to be offered or the compensation to be made, where part only of a telephone system is proposed to be purchased or expropriated there shall be included in such price or compensation as the case may be, a sum sufficient to compensate the owner of such system for any damages directly resulting from severance. R.S.O. 1927, c. 227, s. 34.

Arbitration by Board where parties fail to agree.

**34.** When a municipality owning and operating or intending to own and operate a telephone system has taken proceedings under this Act to acquire a part of the telephone system of a municipality operating in such first named municipality or in an adjoining municipality and the parties are unable to agree upon the price to be paid for the same the Board shall have full power and authority to settle the terms and conditions of such acquisition including the price to be paid and all other matters proper to be taken into consideration and adjusted in the premises. R.S.O. 1927, c. 227, s. 35.

Powers of council to borrow money and to issue debentures.

**35.** Where the council of the initiating municipality acquires by purchase or expropriation an existing telephone system or part thereof, the powers vested by this Act in the council of the initiating municipality as to borrowing by way of temporary advances and in respect of the issue of debentures for the establishment or extension of a telephone system may be exercised by the council of the initiating municipality for the purpose of defraying the cost of such purchase. R.S.O. 1927, c. 227, s. 36.



*Cost of Establishment, Extension and Maintenance.*

**36.** The cost of establishment of a system or of any extension thereto shall be defrayed by the subscribers whose signatures are affixed to the petition for such establishment or extension in equal proportions or in such other proportions as may be fixed by the council of the initiating municipality with the approval of the Board, and in case of default in payment by any subscriber of the amount so fixed the same may be collected as an ordinary debt by action against the person liable therefor or may be added to the collector's roll as taxes due from him and may be collected in the same manner as other taxes. 1937, c. 76, s. 5.

**37.** Where the subscribers have prayed that debentures of the initiating municipality be issued to pay the cost of the work, the annual special rates assessed against the land of a subscriber shall be a charge upon the land designated by such subscriber in the petition for the establishment or extension of a system (and being land owned by such subscriber when he signed the petition), and shall, notwithstanding a change in the ownership of such land, continue to be a charge thereon until such rates have been fully paid, and such special rates may, as they become payable, be collected as an ordinary debt by action against the person liable therefor, or may be placed upon the collector's roll against the said land as taxes due from the owner of the same and may be collected in the same manner as other taxes, and this section shall apply to all special rates heretofore and hereafter assessed against any lands under this Act. R.S.O. 1927, c. 227, s. 38.

**38.** Any subscriber where property is liable to be specially assessed to discharge debentures issued to meet the cost of such work may commute for a payment in cash the special rates assessable against his property forthwith after the actual cost of the work and the proportion of such cost payable by such subscriber have been ascertained. R.S.O. 1927, c. 227, s. 39.

**39.**—(1) The cost of maintenance of a system shall be defrayed by the subscribers in equal proportions or in such other proportions as may be fixed by the Board and shall be a charge on the lands of the several subscribers apportioned as above, and may be collected in the same manner and with the same remedies as the cost of the establishment or extension of a system or as any special rate assessed against the land of a subscriber in respect of such cost. R.S.O. 1927, c. 227, s. 40 (1); 1937, c. 76, s. 6 (1).



Collection of  
tolls paid to  
other com-  
panies for  
subscribers.

(2) Any tolls or moneys paid by the initiating municipality to any other system or company for telephone service furnished by such system or company to any subscriber of the initiating municipality shall be a charge upon the land of such subscriber and may be collected by the initiating municipality in the same manner and by the same remedies as the cost of the maintenance of a system. R.S.O. 1927, c. 227, s. 40 (2); 1937, c. 76, s. 6 (2).

Release of  
subscribers  
from  
liability.

**40.** Where debentures have been issued to meet the cost of establishing or extending a system, the instalments of principal and interest in repayment of which debentures are a charge upon the land of a subscriber whose name is set out in the schedule to the by-law providing for the issue of such debentures and the period for which such debentures have been issued has expired, any such subscriber who has fully paid his share of all instalments of principal and interest due under such by-law together with all other charges payable by him in respect of such system, including his proportionate part of any debt from the subscribers to the initiating municipality arising under section 27 or 41 for which he may be liable, shall thereafter be released and discharged from all liability in respect of such system, excepting any liability which may arise under any further or other contract made by him or by reason of his continuing to take telephone service or of such service being reinstated upon his premises. 1937, c. 76, s. 7.

Deficiency  
in any year  
how made  
up.

**41.** If the amount collected from the subscribers, together with any other revenue derived from the operation of the system is insufficient in any year to meet the instalment of principal and interest falling due, and the cost of maintenance, the deficiency shall be paid out of the general funds of the initiating municipality, and the amount so paid shall constitute a debt due from the subscribers to the initiating municipality and may be collected in the same manner as any other debt due by the subscribers under this Act. R.S.O. 1927, c. 227, s. 42.

Equalizing  
charges  
against  
subscribers.

**42.** If the share of the cost to each subscriber to any extension of a system is less than the share of the cost to each subscriber to the establishment of the original system, the initiating municipality may charge each subscriber to such extension the same annual amount, and for the like term of years, as was charged each subscriber to the establishment of the original system, and the difference between such last mentioned amount and the cost to each subscriber to such extension, shall be applied by the initiating municipi-

pality towards the cost of the maintenance of the system, including any extensions of the same. R.S.O. 1927, c. 227, s. 43.

**43.** If the share of the cost to each subscriber to any extension of a system is more than the share of the cost to each subscriber to the establishment of the original system, the initiating municipality may, with the approval of the Board, and subject to such conditions as the Board may prescribe, levy upon the property of each subscriber to such extension such annual special rate as in the opinion of the Board will be sufficient to discharge the debt incurred by reason of such extension, in equal annual instalments of principal and interest. R.S.O. 1927, c. 227, s. 44.

**44.** In the event of a question arising as to the validity of any special rate levied under this Act, the same shall be determined by the Board, on an application to it for that purpose, and the determination of the Board shall be final and conclusive. R.S.O. 1927, c. 227, s. 45.

**45.** The initiating municipality, or where commissioners have been elected, such commissioners may prescribe the terms on which a person not being a subscriber may procure his premises to be connected with the system, and the rate at which he may receive telephone service, and any such rate which has heretofore or may hereafter be approved by the Board may be collected in the same manner and with the like remedies as a rate due and unpaid by the subscriber. 1928, c. 21, s. 12.

#### *Telephone Commissioners.*

**46.** Until the subscribers of a telephone system petition or requisition the council of the initiating municipality as hereinafter provided, the system shall be under the control and management of the council. R.S.O. 1927, c. 227, s. 47.

**47.** Upon the petition of a majority of the subscribers or upon a requisition assented to by a two-thirds vote of the subscribers present at a general meeting duly called, the council of the initiating municipality shall place the system under the control and management of three commissioners to be designated "The Commissioners for the Telephone System of the Municipality of . . .", a majority of whom may exercise all the powers of the commissioners. R.S.O. 1927, c. 227, s. 48.

**48.** Subject as may be authorized under the provisions of clause *d* of section 56 the commissioners shall be elected each year at the annual general meeting of the subscribers, or at a

general meeting called for the purpose, and the commissioners shall hold office until their successors are elected as provided herein. R.S.O. 1927, c. 227, s. 49; 1937, c. 76, s. 8.

Only a subscriber may be commissioner.

**49.** No person shall be eligible for election as a commissioner unless he is a subscriber to the system as herein defined. R.S.O. 1927, c. 227, s. 50.

Disqualification for office of commissioner and auditor.

**50.**—(1) No assessor, collector, treasurer, clerk or member, other than the head, of the council of an initiating municipality and no person having himself or by or with or through another an interest, other than that of a subscriber, in any contract relating to the construction or maintenance of the system or in any contract for the supply of goods or materials to a contractor for work in connection with the system for which the initiating municipality or the commissioners are liable directly or indirectly to pay or who has an unpaid claim for such construction or maintenance, goods or materials, shall be eligible to be elected a commissioner or auditor, but the foregoing shall not render a commissioner ineligible to be appointed secretary or treasurer or secretary-treasurer of a telephone system at a salary to be fixed by the commissioners for such system. R.S.O. 1927, c. 227, s. 51; 1937, c. 76, s. 9 (1).

Application to other municipality.

(2) This section shall apply to a municipality into which the initiating municipality may extend its system. 1937, c. 76, c. 9 (2).

Filling vacancies in office of commissioner.

**51.** Where a vacancy in the office of commissioner occurs from resignation, death or incapacity to act, the council of the initiating municipality shall, with the approval of the Board, immediately appoint a successor who shall hold office for the remainder of the term for which his predecessor was elected or appointed. R.S.O. 1927, c. 227, s. 52.

Powers of telephone commissioners.

**52.** From and after the election of the commissioners for a system as herein provided, the control and management of the system shall be vested in the commissioners and all the provisions of this Act relative to the initiating municipality and the council thereof in respect of such system shall, except in so far as they or any of them are by this Act expressly excepted be applicable to the commissioners. R.S.O. 1927, c. 227, s. 53.

Remuneration.

**53.** The commissioners shall be paid such remuneration for their services as may be fixed by by-law passed as hereinafter prescribed. R.S.O. 1927, c. 227, s. 54.



**54.** Nothing herein contained shall affect the ownership of the system which shall remain vested in the initiating municipality nor the authority and duty of the initiating municipality and its several officials, upon the requisition of the commissioners to provide from time to time all moneys required for the establishment and maintenance of the system or any extension thereof, nor the right of the initiating municipality to levy and collect all moneys and rates which may be due and owing from time to time by the subscribers. R.S.O. 1927, c. 227, s. 55.

**55.** The commissioners may procure to be given by the secretary or other officer employed by them such security as they may require for the faithful performance of his duties by such secretary or other officer, and for the duly accounting for and paying over all moneys which may come into his possession or control. R.S.O. 1927, c. 227, s. 56.

**56.** The commissioners of a system may make by-laws not contrary to law or to this Act, to regulate,—

- (a) the time and place at which the meetings of subscribers shall be held, the manner of calling such meetings and the procedure at the same;
- (b) the manner of election, duties and remuneration of the commissioners;
- (c) the control and management of the system;
- (d) the term of office of the commissioners by extending the same to a term of three years and so that at the first election of commissioners for a term of three years one of them shall hold office for a term of one year only, one of them for a term of two years and the remaining one for a term of three years; provided that a by-law for such purpose may not be repealed until after the expiration of the second year after that in which it was passed;

but such by-laws shall first be approved by the Board and as so approved may be confirmed at a general meeting of the subscribers called for the purpose or at the next annual meeting of the subscribers and until so confirmed shall not come into force. R.S.O. 1927, c. 227, s. 57; 1937, c. 76, s. 10.

**57.** Upon a resolution adopted by a majority of all the subscribers of the system at a special general meeting duly called, requiring the council of the initiating municipality to take over the control and management of the system, the council may, with the approval of the Board, pass a by-law



for that purpose, and thereupon the commissioners, their officers, servants and agents shall hand over to the council or some official designated by it, all the property of the system of what kind soever and all moneys, vouchers, books, papers, documents and memoranda relating to the system in their possession, and thereafter the control and management of the system shall be vested in the initiating municipality and the council thereof. R.S.O. 1927, c. 227, s. 58; 1937, c. 76, s. 11.

*Meetings of Subscribers.*

Annual  
meeting.

**58.** Every system established under this Part shall hold a general meeting of its subscribers in each year not later than the 15th day of February, or at such other time as may be approved by the Board. R.S.O. 1927, c. 227, s. 59; 1937, c. 76, s. 12.

Financial  
statement  
to be sent  
to sub-  
scribers.

**59.** Not less than ten days before the day fixed for holding the annual meeting a financial statement shall be sent by mail prepaid or delivered to each subscriber and to each member of the council of the initiating municipality containing,—

- (a) a balance sheet showing in sufficient detail the assets and liabilities of the system as of the 31st day of December last past;
- (b) an abstract of the income and expenditure of the system for the financial year ending on the 31st day of December last past;
- (c) a copy of the report of the auditor or auditors for the year ending on the 31st day of December last past;
- (d) such other information respecting the system as the by-laws may require or the Board prescribe. R.S.O. 1927, c. 227, s. 60.

Statement to  
be submitted  
to meeting.

**60.** The financial statement in section 59 shall be submitted to the subscribers at the annual general meeting. R.S.O. 1927, c. 227, s. 61.

Notice.

**61.** In default of other express provision in the by-laws of the system, notice of the time and place for holding any general meeting of the subscribers shall be given at least ten days previously thereto by registered letter to each subscriber at his last known address. R.S.O. 1927, c. 227, s. 62.

Notice to  
council  
members.

**62.** A notice of every general meeting of the subscribers shall be mailed prepaid or delivered to each member of the council of the initiating municipality. R.S.O. 1927, c. 227, s. 63.

**63.** All notices calling a general meeting of the subscribers and the financial statements above mentioned shall be sent out by the commissioners or by their secretary or other officer, and where the system is under the control and management of the council, by the clerk of the initiating municipality. R.S.O. 1927, c. 227, s. 64.

By whom  
notices of  
meeting to  
be sent.

**64.** The notice calling any special general meeting shall state the business which is to be transacted at it. R.S.O. 1927, c. 227, s. 65.

Notice of  
special  
general  
meeting.

**65.** Upon receipt of a requisition in writing, signed by not less than one-tenth of the subscribers, setting forth the objects of the proposed meeting, the commissioners, by their secretary or other officer, or where the system is under the control and management of the council, the clerk of the initiating municipality, shall forthwith call a special general meeting of the subscribers for the transaction of the business mentioned in the requisition. R.S.O. 1927, c. 227, s. 66.

Special  
general  
meeting  
called on  
requisition.

**66.** If the meeting is not called and held within twenty-one days from the date upon which the requisition was handed or mailed prepaid to the chairman or secretary of the commissioners or to the clerk of the initiating municipality, as the case may be, one-tenth of the subscribers, whether they signed the requisition or not, may themselves by notice as herein provided call a special general meeting of the subscribers for the transaction of such business. R.S.O. 1927, c. 227, s. 67.

Special  
general  
meeting  
called by  
subscribers.

**67.** The commissioners or the council of the initiating municipality, as the case may be, may of their own motion call a special general meeting of the subscribers for the transaction of any business. R.S.O. 1927, c. 227, s. 68.

Special  
general  
meeting  
called by  
council, etc.

**68.** No person shall be entitled to vote at any general meeting unless he is a subscriber to the system; provided that any member of the council of the initiating municipality may attend any general meeting and take part in the deliberations thereat, but may not vote. R.S.O. 1927, c. 227, s. 69.

Who may  
vote at  
general  
meetings.

**69.** The presence in person or by proxy of at least fifty subscribers or of one-fourth of all the subscribers, or the presence in person of at least twenty-five subscribers or one-tenth of all the subscribers shall be necessary to constitute a quorum at general meetings, and the instrument appointing a proxy shall be in writing under the hand of the appointer, or if such appointer is a corporation, under its common seal,

Quorum,  
proxies.

and shall be attested by at least one witness, and no person shall be appointed a proxy who is not a subscriber. R.S.O. 1927, c. 227, s. 70; 1931, c. 23, s. 19.

*Duties and Remuneration of Municipal Officials.*

Duties of municipal officials of initiating municipality.

**70.** When a telephone system is under the control and management of the initiating municipality the several officials of the municipality in their respective offices shall do and perform all acts, matters and things herein on their part respectively directed to be done and performed in respect of the system, and when the system is under the control and management of commissioners, the said officials respectively shall do and perform the said acts, matters and things in like manner unless relieved therefrom by the commissioners. R.S.O. 1927, c. 227, s. 71.

Duties of municipal officials in initiating and other municipalities.

**71.** Where a telephone system extends into a municipality other than the initiating municipality the clerk of the initiating municipality shall forthwith after its passing transmit to the clerk of such other municipality a certified copy of every debenture by-law charging with a rate the premises of any subscriber situate in such other municipality, and shall also in any year, when so required by the initiating municipality or the commissioners of the system, as the case may be, transmit to the clerk of such other municipality the amount payable by each such subscriber respectively, and the same shall be placed on the collector's roll of such other municipality, and shall be collected in the same manner as municipal taxes, and paid over to the treasurer of the initiating municipality. R.S.O. 1927, c. 227, s. 72.

Remuneration.

**72.** The initiating municipality, or the commissioners, as the case may be, shall pay to the clerk, treasurer and collector of such municipality respectively, and to the clerk, treasurer and collector respectively of any other municipality into which its system extends, a reasonable remuneration for services performed by them or any of them under this Act, and such remuneration shall be fixed by agreement between the official performing the service and the council of the municipality or the commissioners, as the case may be, and failing agreement, by the Board, on an application to it for that purpose. R.S.O. 1927, c. 227, s. 73.

Penalties for breach of duty by municipal officials.

**73.** The clerk, treasurer or collector of any municipality failing or neglecting to do and perform any act, matter or thing herein, or by any other Act or by order of the Board directed to be done and performed by them respectively,



shall incur a penalty of \$50 to be recovered and enforced by order of the Board, or under *The Summary Convictions* Rev. Stat. c. 136.  
*Act.* R.S.O. 1927, c. 227, s. 74.

### *Books of Account.*

**74.**—(1) The council of the initiating municipality or the commissioners, as the case may be, shall cause proper books of Books of account to be kept.  
 account to be kept containing full and true statements of,—

- (a) the financial transactions in respect of the system;
- (b) the assets of the system;
- (c) the sums of money received and expended in respect of the system and the matters in respect of which such receipt and expenditure took place;
- (d) the credits and liabilities of the system,

and a book or books containing minutes of all the proceedings and votes at meetings of the council or of the commissioners and subscribers, respectively, verified by the signature of the reeve, chairman of the commissioners or other presiding officer, as the case may be. R.S.O. 1927, c. 227, s. 75.

(2) All moneys received in respect of the system shall forthwith be deposited in one of the chartered banks in an account in the name of the system and all expenditures in respect of the system shall be paid by cheque drawn upon such account signed by the head of the council and treasurer of the initiating municipality, or where the system is under the control and management of a commission by its chairman and treasurer. 1937, c. 76, s. 13. Deposit and withdrawal of moneys.

### *Audit.*

**75.** The accounts of the system shall be examined once at least in every year and the correctness of the balance sheet shall be ascertained by the auditor or auditors of the initiating municipality, and where the system is under the control and management of commissioners, by an auditor or auditors, who shall be elected at the annual or other general meeting of the subscribers. R.S.O. 1927, c. 227, s. 76. Audit of accounts.

**76.** The council of the initiating municipality or the commissioners, as the case may be, may fill any casual vacancy in the office of auditor, and any auditor shall be eligible for reappointment. R.S.O. 1927, c. 227, s. 77. Filling vacancies in office of auditor.



Remuneration of auditor.

**77.** The remuneration of the auditor or auditors shall be fixed by the subscribers in general meeting, except that the remuneration of any auditor or auditors appointed to fill any casual vacancy, may be fixed by the council of the initiating municipality, or by the commissioners, as the case may be. R.S.O. 1927, c. 227, s. 78.

*Limitation of Actions.*

Limitation of action against corporation.

**78.** No action shall be brought against a municipal corporation or any of its officers, agents or servants for anything done or omitted in the construction, operation or maintenance of a telephone system, or in the exercise of any of the powers under this Act after the lapse of six months from the time when the cause of action arose. R.S.O. 1927, c. 227, s. 79.

PART III.

GRANTS OF MUNICIPAL FRANCHISES.

Grants of right to use highways.

**79.** The council of a county, village or township, with the approval of the Board, and the council of any other municipality, with the assent of the municipal electors, may pass a by-law or by-laws for granting to a telephone company, upon such terms and conditions as may be deemed expedient, the right to use any of the highways, squares, or lanes under the jurisdiction of the council of such county, village, township or other municipality for placing in, upon, over or under the same, poles, cables, ducts and wires for the purpose of its business. R.S.O. 1927, c. 227, s. 80.

Exclusive right to use highways in urban municipalities.

**80.** In the case of a city, town or village, the right in section 79 mentioned may be an exclusive right, limited to a period not exceeding five years at any one time. R.S.O. 1927, c. 227, s. 81.

Use of highway for private telephone line.

**81.** Notwithstanding a by-law passed under section 80, a council may grant to any person permission to use any of the highways, squares or lanes of the municipality, for the purpose of a private telephone line for the use of such person, his servants, clerks, or agents, or persons communicating with him or them. R.S.O. 1927, c. 227, s. 82.

Board to determine differences as to use of highways.

**82.** Subject to the provisions of sections 79, 80 and 81, whenever the council of a municipality and a company are unable to agree as to the terms and conditions upon which the right to use the highways, squares, or lanes in the municipality shall be granted, the council and the company may, by common consent, refer the matters in dispute to the

Board, in which event the Board, after hearing the evidence of all persons interested, may prescribe such terms and conditions, and thereupon such terms and conditions shall be binding upon the corporation of the municipality and the company. R.S.O. 1927, c. 227, s. 83.

**83.** In unincorporated territory the right to use, for the foregoing purposes, any highway or road allowance situated in a township without municipal organization may be granted by the Minister of Lands and Forests, upon such terms and conditions and subject to such rentals or charges as may be fixed by the said Minister. 1932, c. 28, s. 3.

Right to use highways in unorganized townships.

## PART IV.

### INCORPORATION OF COMPANIES.

**84.** Every unincorporated association or partnership of persons, comprising five or more members or partners, owning or proposing to own, a telephone system, and using or proposing to use a public highway or highways, for the purpose of furnishing telephone service to the members or partners of such unincorporated association or partnership, or any of them, or to other persons, shall procure to be issued to them letters patent under *The Companies Act*, creating them a corporation, with share capital, for the purpose of carrying on the business of a telephone company. R.S.O. 1927, c. 227, s. 85.

Partnerships and unincorporated associations to be incorporated.

Rev. Stat. c. 251.

**85.** Every member or partner of such association or partnership shall have allotted to him shares in the company so incorporated of equal value to his share or interest in the association or partnership at the date upon which the charter of incorporation is granted, and if any dispute arises as to the value of such share or interest, the same shall be determined by the Board. R.S.O. 1927, c. 227, s. 86.

Allotment of shares in company to members of partnership, etc.

**86.** In computing the value of the share or interest of any member or partner there shall be included, in addition to any money contributed by him for the purpose of such unincorporated association or partnership, the value of any poles, wires, or other equipment, including the cost of installation, contributed by him, and for which such member has not been reimbursed, and thereafter such poles, wires or other equipment, as the case may be, shall be the property of the company. R.S.O. 1927, c. 227, s. 87.

How value of partners to be computed.

**87.** No by-law of an incorporated telephone company shall have any force or effect or be acted upon until approved by the Board. 1932, c. 28, s. 4.

By-laws to be approved by Board.

Rev. Stat.  
c. 251, ss.  
168-170 not  
to apply.

**88.** The provisions of sections 168 to 170 of *The Companies Act* shall not be applicable to telephone systems. R.S.O. 1927, c. 227, s. 89; 1932, c. 28, s. 5.

## PART V.

### ALL TELEPHONE SYSTEMS.

#### *Equipment and Service.*

Efficient  
service to be  
furnished.

**89.** Every company shall furnish a prompt and efficient service and for the purpose of ensuring the same the Board may prescribe conditions and specifications for the construction, maintenance and equipment of all telephone systems and may make such orders for the maintenance thereof as the Board may from time to time determine to be expedient or necessary. R.S.O. 1927, c. 227, s. 90; 1937, c. 76, s. 14.

Conditions  
and specifications.

**90.** In prescribing such conditions and specifications, the Board shall take into consideration only such standards as in general practice have been found necessary for the protection of life and property, and for the provision of an efficient service to the public, without regard to any particular type of equipment or apparatus. R.S.O. 1927, c. 227, s. 91.

Repairs to  
equipment  
operated but  
not owned  
by company.

**91.** Where the telephone or other equipment operated in connection with the system of a company is not the property of such company, the owner of such telephone or other equipment shall keep and maintain the same in proper working order, and so as not to impair the efficient operation of said system, and in case such owner fails to do so, the company by its servants or agents may at all reasonable times and upon reasonable notice given or request made enter in and upon the premises upon which such telephone or other equipment is situate for the purpose of inspecting and repairing, and where necessary may repair the same, and the company may collect the cost of the repairs so made from the owner of such telephone or other equipment in like manner and with the like remedies as it may collect telephone rates. R.S.O. 1927, c. 227, s. 92.

Duplication  
of pole leads  
on highways.

**92.** No company shall erect poles upon or along or adjacent to and parallel with any portion of a highway upon or along which the pole leads of another company are already erected, or otherwise by means of its system or any part thereof duplicate or compete with the system of any other company which furnishes telephone service in the same municipality or locality in which the first mentioned company proposes to furnish such service, unless by consent of the Board. R.S.O. 1927, c. 227, s. 93; 1937, c. 76, s. 15.



**93.** When in the opinion of the Board the convenience of persons desiring telephone service requires the extension of a system upon or along a highway, upon or along which there is already a telephone pole lead, the Board may make such order as it may deem expedient for authorizing such extension, and preventing the unnecessary multiplication of pole leads upon or along such highway, and such order shall not be subject to appeal or be open to review except by the Board. R.S.O. 1927, c. 227, s. 94.

Use of pole leads by two or more systems.

**94.** Notwithstanding anything in any Act contained, whenever any person makes application to a company for telephone service, the company shall furnish such telephone service upon terms to be agreed upon, and failing agreement, upon such terms and conditions as may be ordered by the Board, and no order made under this section shall be subject to appeal or to review except by the Board. R.S.O. 1927, c. 227, s. 95.

Telephone service to be furnished on request.

**95.** Where it is necessary for the purpose of carrying into effect any order of the Board made under this Act that a company should erect poles, cables, ducts or wires upon or along any road or highway under the jurisdiction of a town, village, county or township municipality, such company may, notwithstanding any limitations in the letters patent incorporating it or otherwise, erect such poles, cables, ducts and wires upon or along such road or highway upon such terms and conditions as may be agreed upon between the council of the municipality and the company, and if the council and the company are unable to agree, then upon such terms and conditions as shall be prescribed by the Board. R.S.O. 1927, c. 227, s. 96.

Erection of poles to enable performance of Board's order.

Terms.

#### *Connection of Telephone Systems.*

**96.** A company may enter into an agreement with any other company or with a commission furnishing telephone service to the public, whether such latter company or commission is under the jurisdiction of the Legislature of the Province of Ontario or not, providing for the connection, intercommunication, joint operation or reciprocal use of the respective lines and systems controlled, owned or operated by such companies, or by such company or commission, as the case may be, and for the transmission of business between such systems, and for the interchange of telephone messages and service passing to, from or over their said lines and systems, and for the apportionment of tolls, commissions and expenditures, and the division of receipts and profits and generally for the regulation, management and operation

Agreements for connection, joint operation, etc.



of their said lines and systems respectively, as between themselves and otherwise; but no such agreement shall have any validity or effect until approved by the Board. R.S.O. 1927, c. 227, s. 97.

Board may order connection, joint operations, etc.

**97.** Whenever the telephone systems or lines of two or more companies are situate in such proximity to one another as to make it expedient in the public interest that they should be connected in order that there may be intercommunication between, or joint operation or reciprocal use of them, or that such systems or lines should be used jointly by such companies for the transmission of messages by or over the same, if either or any of such companies fail or refuse to enter into an agreement with the other or others, the Board shall order that such connection be made, and shall order by whom, and in what manner, any line or works necessary for the purpose of making such connection shall be constructed and maintained, and how the cost incurred in constructing and maintaining it or them shall be borne, and shall order that there shall be such intercommunication between, or joint operation or reciprocal use of, and such transmission of, messages by or over such systems or lines, including any such connecting lines or works, upon such terms and conditions as the Board may prescribe, and such order shall not be subject to appeal or be open to review except by the Board. R.S.O. 1927, c. 227, s. 98.

Intercommunication by systems terminating on the switchboard of any company.

**98.—(1)** Where the lines of two or more telephone systems terminate upon the switchboard of a company, such company shall furnish all reasonable and proper facilities for the interchange of conversations between such telephone systems.

What facilities to be included.

**(2)** The facilities to be so afforded shall include the providing of suitable appliances and competent operators to connect the lines of such telephone systems, and the permitting of conversations to be transmitted without unreasonable delay over the lines so connected.

Terms.

**(3)** The terms upon which the facilities for the interchange of conversation between two or more telephone systems shall be afforded under this section shall be fixed by agreement between the companies interested, subject to the approval of the Board, and failing such agreement they shall be fixed by the Board. R.S.O. 1927, c. 227, s. 99.

Intercommunication between Dominion and Provincial companies.

**99.** Where the telephone system or lines of a company within the legislative jurisdiction of the Province of Ontario and the system or lines of a telephone company within the jurisdiction of the Parliament of Canada are situate in such

proximity to one another as to make it practicable for such systems or lines to be so connected as to provide direct communication whenever required, between any telephone on the one system or line and any telephone on the other system or line, either of such companies or any municipal corporation or other public body or any person interested may file with the secretary of the Board, and with the secretary of the Board of Railway Commissioners for Canada, an application for an order that such connection should be made together with evidence of service of such application upon the companies interested or affected, and the provisions of clauses *b, c, d and e* of subsection 1 of section 131 of *The Railway Act*,<sup>Rev. Stat. c. 259.</sup> with the necessary adaptation, shall apply to every such application. R.S.O. 1927, c. 227, s. 100.

*Sales and Agreements Increasing Cost of Service.*

**100.** A company shall not enter into an agreement with any other company having authority to construct or operate a telephone system, or line, whether such authority is derived from the Legislature of the Province of Ontario or not, which may have the effect of increasing the cost of telephone service to the public or of restricting competition in the supply of such service until such agreement has been submitted to and approved by the Board as just and reasonable. R.S.O. 1927, c. 227, s. 101.

**101.**—(1) No company shall sell or transfer its system or a controlling interest in it to any person or company, or amalgamate with any company or system, or enter into an agreement which shall, in effect, transfer the ownership or control of the system of such first named company to any other company, whether such other company is within the jurisdiction of the Legislature of the Province of Ontario or not, until the Board has approved such sale, transfer, amalgamation or agreement. R.S.O. 1927, c. 227, s. 102.

(2) The Board may by its order cancel and determine any of the rights, powers and privileges possessed by or conferred upon any company, under the authority of this Act, if such company violates the provisions of section 100 or this section, and may by its order prohibit such company carrying on business as a telephone company under this Act. 1935, c. 66, s. 21.

*Tolls.*

**102.** All tolls to be charged by any company and all special rates to be levied and collected by any municipal corporation under this Act, shall be subject to the approval of the Board

and no company or corporation shall charge, levy or collect any toll or special rate in excess of those approved by the Board. R.S.O. 1927, c. 227, s. 103.

Tariffs to be filed.

**103.** Every company shall file with the Board its tariff of tolls in such form as the Board may prescribe, and shall give such particulars as the Board by order or regulation may require, and no company shall charge any toll which has not been filed with and approved by the Board. R.S.O. 1927, c. 227, s. 104.

Prohibition against discrimination as to tolls.

**104.** There shall be no discrimination by any company in favour of or against any person, company or corporation furnished with telephone service by such first mentioned company either by way of reduction or increase in any toll as approved by the Board and no company shall without the approval of the Board furnish free telephone service to any person, company or corporation. R.S.O. 1927, c. 227, s. 105.

Penalty for neglect to comply with certain provisions.

**105.** If a company makes default in complying with the provisions of sections 102, 103 and 104, or any of them, the company shall incur a penalty of \$25 for every such default, and every director, commissioner, manager, secretary or other officer of the company who wilfully authorizes or permits such default, shall incur the like penalty; every such penalty shall be recoverable under *The Summary Convictions Act*, or may be enforced by order of the Board. R.S.O. 1927, c. 227, s. 106.

Rev. Stat., c. 136.

Municipal agreement or by-law fixing tolls.

**106.** Notwithstanding the provisions of any municipal agreement or by-law, a company may, with the approval of the Board, charge higher tolls than those prescribed in such municipal agreement or by-law. R.S.O. 1927, c. 227, s. 107.

Publication of tolls.

**107.** The Board may, by regulation or otherwise, prescribe the manner and form in which any tariff of tolls shall be published or kept open for public inspection. R.S.O. 1927, c. 227, s. 108.

#### *Depreciation Fund.*

Maintenance of depreciation fund.

**108.** Every telephone company shall out of earnings provide and maintain a proper and adequate depreciation fund whenever the Board shall, after inquiry, determine that such depreciation fund is reasonably necessary, and the Board on such inquiry shall ascertain and determine what is the proper and adequate rate of depreciation of the property of each such company, and the Board may make such changes in such rate of depreciation from time to time as it may find expedient. R.S.O. 1927, c. 227, s. 109.



**109.** The moneys carried to the credit of the depreciation fund shall, unless the Board otherwise directs, be deposited in a chartered bank at interest and may, with the approval of the Board, be expended in new constructions or extensions or additions to the property of the company, or with the like approval may be invested in interest-bearing securities, and all interest accruing from any portion of the depreciation fund so deposited or invested, and such portion of the earnings fixed by the Board as attributable to the moneys so expended in new constructions, extensions or additions, shall from time to time be carried to the credit of the said fund. Deposit and application of fund. R.S.O. 1927, c. 227, s. 110.

*Issues of Stock, Bonds, Etc.*

**110.** A company shall not issue stock, bonds, notes or other evidence of indebtedness payable at periods of more than twelve months after the date thereof, until it shall have obtained from the Board an order authorizing such issue and the amount thereof, and stating the purposes to which the issue or proceeds thereof are to be applied, and that in the opinion of the Board, the money, property or labour to be procured or paid for by the issue of such stock, bonds, notes or other evidence of indebtedness, is or has been reasonably required for the purposes specified in the order, and in case default is made by any company in complying with the requirements of this section every director, manager, secretary or other officer of the company who is knowingly a party to the default shall incur a penalty not exceeding \$50 for every such default, and such penalty shall be recoverable under *The Summary Convictions Act*, or may be enforced by order of the Board. Approval by Board of issue of stock, bonds, notes, etc. R.S.O. 1927, c. 227, s. 111. Rev. Stat. c. 136.

*Offences and Penalties.*

**111.**—(1) No person upon whose premises a telephone instrument, wiring or other equipment is installed shall use or interfere with or permit such telephone instrument, wiring or other equipment to be used or interfered with so as to injure or damage the same or so as to prevent the convenient use of the circuit to which such telephone instrument is connected for the transmission of telephone conversations or messages. Prohibition against interference with instruments by individuals.

(2) Any person guilty of a breach of this section shall incur a penalty of \$25 for each offence, recoverable under *The Summary Convictions Act*. Penalty. R.S.O. 1927, c. 227, s. 112. Rev. Stat. c. 136.

Employees  
divulging  
conversations.

**112.** Every operator or other person in the employ of a telephone company who divulges the purport or substance of any telephone conversation, or message passing over the system or lines of such company, except when lawfully authorized or directed so to do, is guilty of an offence and shall, on summary conviction before a justice of the peace, be liable to a penalty not exceeding \$25 or to imprisonment not exceeding thirty days or to both penalty and imprisonment. R.S.O. 1927, c. 227, s. 113.

Persons  
other than  
employees  
divulging  
conversations.

**113.** Every person who, having acquired knowledge of any conversation or message passing over any telephone system or line not addressed to, or intended for, such person, divulges the purport or substance of such conversation or message except when lawfully authorized or directed so to do, is guilty of an offence and shall, on summary conviction before a justice of the peace, be liable to a penalty not exceeding \$25, or to imprisonment for a term not exceeding thirty days or to both penalty and imprisonment. R.S.O. 1927, c. 227, s. 114.

Using obscene  
language over  
telephone  
system.

Rev. Stat.  
c. 136.

**114.** Any person who, when using a telephone instrument or conversing over a telephone system or line, whether such telephone instrument, system or line is owned by a company within the jurisdiction of the Legislature of Ontario or not, shall use indecent, obscene, blasphemous or grossly insulting language shall, upon conviction under the provisions of *The Summary Convictions Act*, incur a penalty not exceeding \$25, and in default shall be imprisoned for a period not exceeding thirty days. R.S.O. 1927, c. 227, s. 115.

#### *Receiving and Transmitting Weather Bulletins.*

Companies  
to receive  
and communicate  
daily weather  
bulletin to  
subscribers.

**115.**—(1) It shall be the duty of every telephone company, its operators and agents, to whose central office the daily weather forecast bulletin issued by the Meteorological Bureau is delivered or transmitted, to receive the same and forthwith transcribe such bulletin legibly in writing or type on a form to be prescribed by the Board, and to file the same in said exchange, and to communicate, free of charge, the contents of such bulletin to any subscriber of such company requesting the same.

Transmission  
of bulletin to  
connecting  
company.

(2) The Board may by order or regulation direct any telephone company to whose central exchange the daily weather forecast bulletin is delivered or transmitted as aforesaid, to transmit the contents of the same to any connecting company whose operators and agents shall thereupon in like

manner as in subsection 1 receive, transcribe and file the same, and communicate its contents free of charge to any subscriber of such last-mentioned company requesting the same. R.S.O. 1927, c. 227, s. 116.

*Returns to the Board.*

**116.** Every company shall, on or before the 31st day of January in each year, or at such other time as the Board may specify, furnish to the Board in such form as it shall prescribe such statements, reports and returns respecting the cost, receipts, expenditures, operation, management and equipment of such system as the Board may require. R.S.O. 1927, c. 227, s. 117. Furnishing returns, etc.

**117.** If default is made in complying with the requirements of section 116, every director, commissioner, manager, secretary or other officer of the company who is knowingly a party to the default, shall incur a penalty not exceeding \$50 for every day during which the default continues, and such penalty shall be recoverable under *The Summary Convictions Act*, or may be enforced by order of the Board. R.S.O. 1927, c. 227, s. 118. Penalty for default in making returns. Rev. Stat. c. 136.

PART VI.

POWERS OF THE BOARD.

**118.** The Board shall superintend the carrying out of this Act and, for that purpose, shall have and may exercise all necessary powers and authority over and in respect of any person, company, municipal corporation or board of commissioners. R.S.O. 1927, c. 227, s. 119. Supervisory jurisdiction of the Board.

**119.** The Board shall have exclusive jurisdiction to hear and determine any differences which may arise between two or more municipal corporations in respect of the establishment, extension, operation and maintenance of a telephone system or in respect of any act, matter or thing required to be done by them or any of them under this Act, and the determination of the Board upon the same shall be final and binding upon all parties. R.S.O. 1927, c. 227, s. 120. Board's exclusive jurisdiction to determine disputes between municipalities.

**120.** The Board may, upon request and on such terms as seem expedient, assist by advice any company, municipal corporation, the commissioners for any system and resident assessed landowners as to the establishment, extension, main- Board may advise companies, etc.



tenance and operation of any system or works authorized by this Act and the proceedings incidental thereto. R.S.O. 1927, c. 227, s. 121.

Inquiry by Board as to whether rates sufficient to meet debt charges, etc.

**121.** The Board may from time to time inquire whether any system established by a municipal corporation under this Act is being operated in such a way that the rates or tolls charged for the service furnished by such system are sufficient to pay the debenture debt and interest created and accruing in respect thereof together with the cost of maintenance, or whether greater rates are charged than are sufficient for such purposes, and the Board shall have authority to order such revision or readjustment of the said rates or tolls as it may deem expedient or necessary for the purposes herein defined. R.S.O. 1927, c. 227, s. 122.

Examination of and report upon telephone system.

**122.**—(1) The Board, whenever it appears to be expedient or necessary for the purpose of carrying into effect any of the provisions of this Act, may direct any person to examine and report upon the construction, operation or management of any telephone system, or upon any application, complaint or dispute before the Board or upon any matter or thing over which the Board has jurisdiction and for that purpose such person shall have authority at all reasonable hours to enter any building, office, or other premises belonging to or connected with any such system and to examine and check all books, accounts, tariffs, rates, balance-sheets and other papers, records and documents relating to such system and to examine the switchboards, instruments, toll stations and all other property of whatsoever nature which belongs to or forms a part of such system.

Powers of examiner. Rev. Stat., c. 60.

(2) The person appointed to make such inquiry and report shall have and may exercise all the powers set out in section 58 of *The Ontario Municipal Board Act*.

Adoption of report by Board.

(3) Upon receiving the report of such person appointed to make inquiry and report, the Board may adopt such report in whole or in part and may thereupon make an order upon and in respect of the subject matter of the same. R.S.O. 1927, c. 227, s. 123.

General powers of Board, practice and procedure. Rev. Stat., c. 60.

**123.** The provisions of *The Ontario Municipal Board Act*, with respect to the jurisdiction and powers of the Board, and as to practice and procedure, shall apply *mutatis mutandis* to the exercise of the jurisdiction conferred on the Board by this Act, and the decision of the Board on any question of fact shall be final. R.S.O. 1927, c. 227, s. 124.

**124.** The Board shall have jurisdiction to inquire into, hear and determine any application by or on behalf of any person interested,—

Power of Board to hear complaints.

- (a) complaining that any company has failed to do any act, matter or thing required to be done by the company under *The Railway Act*, this Act, any general or special Act, or by any regulation or order made thereunder by the Lieutenant-Governor in Council, the Board, or any other authority, or that any company has done or is doing anything contrary to or in violation of such Acts, or any of them, or any such regulation or order;
- (b) complaining that any company is charging tolls in excess of those approved by the Board;
- (c) requesting the Board to make any order, or give any direction, sanction or approval which by law it is authorized to make or give. R.S.O. 1927, c. 227, s. 125.

Rev. Stat. c. 259.

**125.** The Board of its own motion may order any person, company or municipality to do forthwith or within any specified time, and in any manner prescribed by the Board, anything which such person, company or municipality is or may be required to do under the said Acts or regulations, or any of them, and may forbid the doing or continuing of anything which is contrary to the same or any of them. R.S.O. 1927, c. 227, s. 126.

Powers of Board exerciseable on its own motion.

**126.** The Board may approve of forms of by-laws, notices and other proceedings to be passed, given, or taken under and in carrying out the provisions of this Act, and every by-law, notice or other proceeding, which is in substantial conformity with the form so approved, shall not be open to objection on the ground that it is not in accordance with the provisions of this Act applicable thereto, but the use of such forms shall not be obligatory. R.S.O. 1927, c. 227, s. 127.

Board may approve of forms, etc.

**127.** The Board may prescribe the forms of accounts, books of accounts and records to be kept by companies subject to the provisions of this Act. R.S.O. 1927, c. 227, s. 128.

Forms of accounts may be prescribed.

**128.** The Board may make regulations for the enforcement and carrying into effect of this Act, and may prescribe penalties where not otherwise provided for the breach of any of the provisions of this Act or of the said regulations, but

The Board may make regulations.

no penalty shall, in respect of any breach, exceed \$100, nor shall the imposition of any such penalty affect any other obligation or liability of a company. R.S.O. 1927, c. 227, s. 129.

Breaches of  
*The Companies Act*  
cured.

Rev. Stat.  
c. 251.

**129.** Notwithstanding anything in any Act contained, whenever any company has failed to do any act, matter or thing required by *The Companies Act*, the Board may inquire into the causes and extent of such failure, and if, in the opinion of the Board, such failure has been due to inadvertence, error or mistake, the Board may order such company to do such acts, matters or things, as the Board may consider to be expedient or necessary in the premises, and, upon such company complying with such order, the Board may recommend to the Lieutenant-Governor in Council that supplementary letters patent, Order-in-Council, or certificate embodying such provisions as may be deemed expedient or necessary be issued to such company, and thereupon the Lieutenant-Governor in Council may issue such supplementary letters patent, Order-in-Council or certificate. R.S.O. 1927, c. 227, s. 130.

Validation  
of acts of  
the company.

Rev. Stat.  
c. 251.

**130.** After such supplementary letters patent, Order-in-Council, or certificate have or has been issued, such company shall be deemed to have performed *nunc pro tunc* such act, matter or thing required to be done by *The Companies Act* as fully and effectively as if such failure had not occurred, and all agreements, contracts and obligations made or entered into by or with the company shall be legal, valid and binding to the same extent as they would have been if such inadvertence, error or mistake had not been made. R.S.O. 1927, c. 227, s. 131.

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